

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

JAMES SHEFFEY,

Petitioner,

v.

MARGARET BRADSHAW, Warden,

Respondent.

) Case No. 1:14CV1329

) JUDGE SOLOMON OLIVER, JR.

) Magistrate Judge George J. Limbert

) **INTERIM REPORT AND**  
) **RECOMMENDATION**  
) **OF MAGISTRATE JUDGE**

On October 17, 2014, Petitioner James Sheffey filed a motion for default judgment pursuant to Rule 55(a) of the Federal Rules of Civil Procedure. ECF Dkt. #6. For the following reasons, the undersigned recommends that the Court DENY Petitioner's motion for default judgment as MOOT.

**I. PROCEDURAL HISTORY**

On June 2, 2014, Petitioner filed a petition for habeas corpus in this Court pursuant to 28 U.S.C. § 2254. ECF Dkt. #1; *see Towns v. U.S.*, 190 F.3d 468, 469 (6th Cir. 1999) citing *Houston v. Lack*, 487 U.S. 266, 270-74 (1988) (a *pro se* prisoner's petition is considered to be filed on the day he delivers it to prison authorities). On June 27, 2014, the case was referred to the undersigned for the issuance of a Report and Recommendation on the petition and for any appropriate orders, including the issuance of an Order requiring Respondent Margaret Bradshaw, the Warden of Richland Correctional Institution ("Respondent), where Petitioner is housed, to answer the petition. ECF Dkt. #3.

On July 3, 2014, the undersigned issued an Order requiring, inter alia, that Respondent file an answer to Petitioner's federal habeas corpus within 60 days from the date of the Order. ECF Dkt. #4. On July 3, 2014, the docket notes reflect that a copy of Petitioner's federal habeas corpus petition was mailed to Respondent.

On October 17, 2014, Petitioner filed the instant motion for default judgment, asserting that the Court should grant default judgment in his favor on his federal habeas corpus petition because

Respondent failed to answer his petition as ordered by the Court. ECF Dkt. #6.

However, the docket reflects that on July 17, 2014, Respondent file a motion in this Court requesting an extension of time within which to file her answer to the federal habeas corpus petition. ECF Dkt. #5. The undersigned granted that motion on July 18, 2014 and ordered that Respondent file her answer to the federal habeas corpus petition on or before October 31, 2014. *See* non-document Order dated 7/18/14.

The docket further reflects that a copy of this Court's Order granting Respondent's motion for an extension of time was mailed to Petitioner at Richland Correctional Institution on July 18, 2014. *See* Dkt. Entry 7/18/14. Apparently, Petitioner did not receive this Order. Petitioner also filed a letter with the Clerk of Courts requesting a copy of the docket, which the Clerk mailed to him on the same day. ECF Dkt. #7; 10/22/14 dkt. entry.

Since the undersigned already granted Respondent's motion for an extension of time within which to file her answer, the undersigned recommends that the Court DENY Petitioner's motion for default judgment as MOOT. ECF Dkt. #6.

**II. CONCLUSION AND RECOMMENDATION**

For the foregoing reasons, the undersigned recommends that the Court DENY Petitioner's motion for default judgment as MOOT. ECF Dkt. #6.

Date: October 29, 2014

/s/George J. Limbert  
GEORGE J. LIMBERT  
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS to this Report and Recommendation must be filed with the Clerk of Court within fourteen (14) days of service of this notice. Fed. R. Civ. P. 72; L.R. 72.3. Failure to file objections within the specified time WAIVES the right to appeal the Magistrate Judge's recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6<sup>th</sup> Cir. 1981).